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OFFICE OF PETITIONS

In re Application of
Tetsuya Kojima et al
Application No. 10/038,582
Filed: January 8, 2002
Attorney Docket No. Q67851:

:
:
: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(a)

This is a decision on the petition under 37 CFR 1.313(a) (and (c)(2)), filed March 14, 2005, requesting withdrawal of the above-identified application from issue.¹

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance was mailed on December 20, 2004, with the issue fee being due on or before March 20, 2005. The petition states that the issue fee in this case has not been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP 706.07(h)(IX). Further, the petition is inappropriate under 37 CFR 1.313(c)(2) in that the issue fee has not been paid.

No fee has been assessed to the instant petition.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3218.

The matter is being referred to Technology Center AU 2682 for appropriate processing of the RCE filed March 14, 2005 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

¹ Although this matter is the subject of a petition decided by the Technology Center, the petition was received in the Office of Petitions for action. However, in order to expedite examination of this application, a decision on the petition to withdraw from issue has been rendered by the Office of Petitions.